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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,051	03/16/2004	Christopher K. Yakes	061300-0216A	9306
7590	10/18/2004		EXAMINER	
James A. Wilke Foley & Lardner Suite 3800 777 East Wisconsin Avenue Milwaukee, WI 53202-5306			GIBSON, ERIC M	
			ART UNIT	PAPER NUMBER
			3661	
			DATE MAILED: 10/18/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/718,051	YAKES ET AL. 
	Examiner	Art Unit
	Eric M Gibson	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 39-41 and 44-82 is/are pending in the application.
- 4a) Of the above claim(s) 44-82 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 39-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 39-41 and 44-82 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/3/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I (Claims 39-41) in the reply filed on 8/5/2004 is acknowledged. The traversal is on the ground(s) that the inventions are not independent. Accordingly, a new grounds for restriction is presented.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 39-41, drawn to a method of transferring information to potential customers over the Internet, classified in class 705, subclass 27.
 - II. Claims 44-82, drawn to an electric vehicle, classified in class 701, subclass 22.
 - a. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of transferring the data to potential customers over the Internet does not require the specific details of the electric vehicle. The claimed method steps of obtaining information, entering the information, and transmitting the information apply generically to any product and the specific recital that the information is about an electric vehicle is not required in order to

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implement the claimed method steps. The subcombination has separate utility such as an electric vehicle.

b. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 39-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 39, line 13, the limitation "transmitting to the information from the terminal" is unclear. It is believed that "to" between "transmitting" and "the information" should be deleted and that the intent of the claim is that the information is being transmitted to the Internet, not that the destination of the transmitting is the information.

b. Claims 40 and 41 are necessarily rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pulliam et al. (US006609108B1).

a. As per claim 39, Pulliam teaches a method of transferring data of a vehicle to potential customers over the Internet including obtaining information on the vehicle (column 11, lines 26-35), entering the information on to a terminal connected to the Internet (column 11, lines 1-3), and transmitting the information from the terminal to the Internet (column 11, lines 4-25). Pulliam does not explicitly teach an electronic traction vehicle. However, the method described by Pulliam is generic and applicable to any and all vehicles, regardless of model, type, or specific features. One of ordinary skill in the art at the time of the invention would know how to modify the method of Pulliam in order to represent the specific attributes of a particular vehicle, including an electric vehicle.

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b. As per claim 40, Pulliam teaches using a computer as a terminal (column 7, lines 46-53).

c. As per claim 41, Pulliam teaches that the information about the vehicle can include price, shipping data, type, and specification information (see for example claims 7 and 8).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lancaster et al. (US2002/0065707A1) teaches an automobile customer information generation and transmission system. Chaves (US2002/0010643A1) teaches on-line motor vehicle sales. Chaves (US2001/0044769A1) teaches motor vehicle dealer e-tailing. Green et al. (US006041310A) teaches a method and system for automobile transactions. Call (US005913210A) teaches methods and apparatus for disseminating product information via the Internet. Johnson (US005493490A) teaches an electronic proposal preparation system for selling vehicles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is (703) 306-4545. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EMG



MICHAEL J. ZANELLI
PRIMARY EXAMINER